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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/674,904  
Filing Date: September 30, 2003  
Appellant(s): KOST ET AL.

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D.C. Peter Chu  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 08/21/2008 appealing from the Office action mailed 12/12/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: Claims 6-10, 21-25, 31, 33-43, 45 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over iPhysicianNet and MedManage System Partners to Offer a New Electronic Voucher Sampling Service to Thousands of US Physicians (Dialog file 20: 16322132), For consumer free samples (Dialog file 9: 02648296), Sample of the Future (Dialog file 9: 02536449), RxCentric and MedManage (Dialog: File 610: 00483951), MedManage Tracks Troublesome Pills (Dialog file 635:2075728), MedManage Leads Shift in Drug

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Sampling Practices Online Vouchers (Dialog: File 16: 08993926) in view of Peyrelevade (US 2003/0120550). The error is that Appellant did not include claim 45 in the rejection.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2002/0032582	FEENEY, JR. ET AL	03-2002
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2003/0120550	PEYRELEVADE ET AL	06-2003
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- Medmanage (TM) Leads Shift in Drug Sampling Practices Online Vouchers, PR NEWSWIRE, PR Newswire, SEP 17, 2001 (Dialog file: 16:08993926).
- Rx Centric and Medmanage Systems Partner to Expand Physician Use of Innovative Online Drug Sampling-Alliance Gives Pharmaceutical Companies Broader Physician Access to Drug Detailing and Sampling Programs, Business Wire, MARCH 20, 2001 (Dialog file: 610:00483951).
- MedManage tracks troublesome pills samples, Tice, Carol, Pudget Sound Business Journal, May 19, 2000 (Dialog file: 635:2075728).
- For Consumers free samples are a virtual reality: Pharmaceutical samples were once strictly passed from manufacturer to physician to patient, but online marketing tactics are rearranging that order, Med Ad News, January 2002 (Dialog file 9: 02648296).

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- Samples of the future (Estimated retail worth of drug samples dispensed in 2000 was \$7.95 bil or some 50% of the promotional spending; new technology to improve monitoring), Med Ad News, July 2001, Dialog file 9:02536449).
- iPhysicianNet and MedManage Systems Partner to Offer a New Electronic and Voucher Sampling Service to Thousand of U.S. Physicians, PR Newswire, April 24, 2001 (Dialog file: 20:16322132).

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 6, 16, 21 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Said claims recite the limitation that a "prescriber's drug sample availability and characteristics while a member of one brand Web site to be different from the same prescriber while a member of another brand web site". The Applicant's claims also recites "same prescriber open the drug sample web site within the brand web site and the same prescriber open the drug sample Web site

within another brand Web site. The Applicant needs to point to the Examiner where in the Applicant's specification said limitations are recited.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 6, 16, 21 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said claims recite the limitation that a "prescriber's drug sample availability and characteristics while a member of one brand Web site to be different from the same prescriber while a member of another brand web site". For purpose of art rejection, said limitation would be interpreted as customizing a website displayed to a customer based upon the brand of said website and based upon said customer's profile and also outsourcing the payment for products in said website. Claim 6 recites "one or more third party sites depending on an exchanged transaction that includes a prescriber identifier so as to open the drug sample Web site within the third party site instead of another third party site". Said limitation is indefinite because it is not clear to what third party site the limitation is referring. For purpose of art rejection, said limitation would be interpreted as meaning visiting a third party website.

### **Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 16-20 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over MedManage Leads Shift in Drug Sampling Practices Online Vouchers (Dialog: File 16: 08993926), RxCentric and MedManage (Dialog: File 610: 00483951) and Sample of the Future (Dialog file 9: 02536449) in view of Peyrelevade (US 2003/0120550).

As per claim 1, MedManage Leads Shift in Drug Sampling Practices Online Vouchers (Dialog: File 16: 08993926) article teaches:

A computer-implemented system for promoting pharmaceutical drugs, comprising:

a computer-readable set of brand rules for guiding a distribution of drug samples of a drug to cause a prescriber's drug sample availability and characteristics (see paragraph 5); and

a computer-implemented drug sample fulfillment platform that is Web-based for implementing the set of brand rules to allow a prescriber to obtain drug samples to dispense to a patient without the use of a sales representative (see paragraphs 1-2)

the computer-implementable drug sample fulfillment platform electronically notifying the prescriber about the availability of drug samples (see paragraph 5 "option to request information on samples that are not their formulary")

MedManage Leads Shift in Drug Sampling Practices Online Vouchers does not teach to cause a prescriber's drug sample availability and characteristics while a member of one brand Web site to be different from the same prescriber while a member of another brand Web site; the computer-implemented drug sample fulfillment platform mating with either the brand Web site or the another brand Web site depending on an exchanged transaction that includes a prescriber identifier and a partner identifier so as to open the computer-implemented drug sample fulfillment platform within the brand Web site or the another brand Web site; the brand Web sites being neither a pharma Web site nor a Web site maintaining the computer-implemented drug sample fulfillment platform. However, Peyrelevade teaches a system that customize the products presented to a user in a website based upon the brand of the website and the user's profile (see Peyrelevade paragraphs 9-11, 82,83, 89) and also teaches outsourcing the payment for products in a website (see paragraph 110). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Medmanage would customize the samples presented to prescribers that visit a website based upon the brand of the website and the prescribers' profiles, as Peyrelevade teaches that it is old and well known to customize the products presented to a user of a website based upon the brand website and the user's profile.

As per claim 2, Sample of the Future (Dialog file 9: 02536449) teaches:

wherein drug samples include physical samples (see paragraph 15).

As per claim 4 MedManage Leads Shift in Drug Sampling Practices Online Vouchers (Dialog: File 16: 08993926) article teaches:



wherein drug samples include a coupon printed in the office of the prescriber, which is networked to the drug sample fulfillment platform (see paragraph 2).

As per claim 5, RxCentric and MedManage (Dialog: File 610: 00483951) article teaches:

wherein the drug sample vouchers, which are in a printed form, are redeemable at a pharmacy, redeemed data being generated by the drug sample fulfillment platform for refining the brand rules so as to better guide allocation and distribution of the drug samples (see paragraph 8).

As per claim 16, RxCentric and MedManage (Dialog: File 610: 00483951) and MedManage Leads Shift in Drug Sampling (Dialog file 16: 08993926) teach

A drug sample fulfillment platform, comprising:

a drug sample Web site for mating with a brand Web site or another brand Web site that is selected from a group consisting of prescriber-oriented Web portals, providing direct or indirect access to drug and/or general medical information, an e-Detailing service, a Web site regarding a drug brand or group of brands, and an online physician learning site (see RxCentric and MedManage paragraph 5-6);

a request database for receiving requests of a prescriber through the drug sample Web site for drug samples, the request database responding to the prescriber by allowing the prescriber to print sample vouchers or coupons or to print an order form for physical samples or pads of pre-printed vouchers without the use of a sales representative, a set of brand rules allowing the prescriber while a member of the brand Web site to receive a set of drug samples in the form of print sample vouchers and

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coupons, order forms for physical samples, or pads or pre-printed vouchers (see RxCentric and MedManage paragraphs 1-6), the drug sample fulfillment platform electronically notifying the prescriber when the prescriber has not ordered drug samples for a certain amount of time (see MedManage Leads Shift paragraph 5).

RxCentric and MedManage and MedManage Leads Shift in Drug Sampling do not teach the mating being dependent on a exchanged transaction that includes a prescriber identifier and a partner identifier so as to open the drug sample Web site within the brand Web site instead of the another brand Web site; and in dosages and quantities different from another set of drug samples, dosages and quantities, while the prescriber is a member of the another brand Web site. However, the same argument made in claim 1 regarding this missing limitation is also made in claim 16.

As per claim 17, Samples of the future (Dialog file: 9:02536449) teaches:

wherein the request database receives claim information when a patient redeems a print coupon or a preprinted voucher for physical samples (see paragraph 10).

As per claim 18, Samples of the future (Dialog file: 9:02536449) teaches: wherein the request database produces a first report accounting for the number of coupons or vouchers redeemed by patients of the prescriber (see paragraph 10).

As per claim 19, Samples of the future (Dialog file: 9:02536449) teaches:

wherein the request database produces a second report correlating an allocation of drug samples of a drug to the prescriber with the number of prescriptions written by the prescriber relating to the drug (see paragraph 10).

As per claim 20, RxCentric and MedManage (Dialog: File 610: 00483951) teaches:

wherein the request database produces a third report accounting for the monetary amount spent by a pharmaceutical company on a drug sample fulfillment program for a drug and a monetary amount associated with prescriptions written by the prescriber for the drug (see RxCentric paragraph 8 “track sales effort”).

As per claim 51, MedManage Leads Shift in Drug Sampling Practices Online Vouchers (Dialog: File 16: 08993926) article teaches:

a pharma rules sample engines for performing personalization and intelligent brand rule implementation (see paragraph 5);

a marketing sample engine for integrating with drug samples suppliers and Web portals for prescribers (see paragraphs 1-6) and

the pharma rules sample engine and the marketing sample engine being based on the set of brand rules and on a set of prescriber preferences (see paragraph 5).

3. Claims 6-10, 21-25, 31, 33-43, 45 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over iPhysicianNet and MedManage System Partners to Offer a New Electronic Voucher Sampling Service to Thousands of US Physicians (Dialog file 20: 16322132), For consumer free samples (Dialog file 9: 02648296), Sample of the Future (Dialog file 9: 02536449), RxCentric and MedManage (Dialog: File 610: 00483951), MedManage Tracks Troublesome Pills (Dialog file 635:2075728), MedManage Leads Shift in Drug Sampling Practices Online Vouchers (Dialog: File 16: 08993926) in view of Peyrelevade (US 2003/0120550).

As per claim 6, iPhysicianNet and MedManage System Partners to Offer a New Electronic Voucher Sampling Service to Thousands of US Physicians (Dialog file 20: 16322132) teaches:

A system for distributing pharmaceutical drugs, comprising:

a drug sample fulfillment platform that comprises a drug sample Web site for mating with, for accessing drug sample services (see paragraph 4) without the use of a sales representative; and

a first set of Web pages coupled to the drug sample fulfillment platform through which a consumer can access the drug sample fulfillment platform to order drug samples (see paragraph 4) but fails to teach one or more third party sites depending on an exchanged transaction that includes a prescriber identifier so as to open the drug sample Web site within the third party site instead of another third party site and if a set of brand rules which specify drug sample availability and characteristics for the prescriber permits the prescriber to access the drug sample fulfillment platform the set of brand rules causing the drug samples available to the prescriber, who is a member of the one third party site, to be different from the available drug samples of the another third party site. However, the same argument made in claim 1 regarding this missing limitation is also made in claim 6.

As per claim 7 iPhysicianNet and MedManage System Partners to Offer a New Electronic Voucher Sampling Service to Thousands of US Physicians (Dialog file 20: 16322132) teaches:

further comprising a second set of Web pages coupled to the drug sample fulfillment platform through which a sales representative can access the drug sample fulfillment platform to print sample vouchers coupons (see paragraph 5). It is inherent that drug sales representative access the MedManage system for an e-detail session.

As per claim 8, For consumer free samples (Dialog file 9: 02648296) teaches:

further comprising a third set of Web pages coupled to the drug sample fulfillment platform through which a patient can access the drug sample fulfillment platform to obtain sample vouchers and coupons (see paragraph 4).

As per claim 9 Sample of the Future (Dialog file 9: 02536449) teaches:

wherein the first set of Web pages display a list of drug samples available to the prescriber to order drug samples in a form selected from a group consisting of pre-printed vouchers and print on-demand sample vouchers and coupons (see paragraph 15).

As per claim 10, RxCentric and MedManage (Dialog: File 610: 00483951) teaches:

wherein the first set of Web pages display a list of the order history of the prescriber, the list including a date drug samples, dosages and quantity ordered by the prescriber (see paragraph 8). It is inherent that for the MedManage system to track sales efforts and collects sampling prescription data, the MedManage system has to display a list of an order history for said tracking.

As per claim 21, MedManage tracks troublesome pill samples (Dialog file 635:2075728) article teaches:

A networked system for ordering pharmaceutical sample drugs, comprising:

a drug sample fulfillment platform that comprises a drug sample Web site for mating with one or more third party sites, (see paragraphs 1-6)

the drug sample Web site presenting a Web page including selectable options for the prescriber to order drug samples without the use of a sales representative (see MedManage tracks troublesome pill samples paragraph 15)

the time frame in which those drug samples are valid and the dosage and quantity of samples that can be ordered for the prescriber being specified by a set of brand rules (see MedManage tracks troublesome pill samples paragraphs 11-15). MedManage determines the different classes of medicines that are valid for a prescriber and it is inherent that there is a time frame for ordering drug samples, as drug samples have expiration date.

MedManage tracks troublesome pill samples fails to teach the mating being dependent on an exchange transaction that includes a prescriber identifier and a partner identifier so as to open the drug sample Web site within the third party site instead of the another third party site and the time frame, dosages and quantity being different depending on whether the prescriber is a member of a third party site or a member of the another third party site. However, the same argument made in claim 1 regarding this missing limitation is also made in claim 21.

As per claim 22 Sample of the Future (Dialog file 9: 02536449) teaches:

wherein the drug samples are in a form selected from a group consisting of physical samples, print sample vouchers and coupons and pre-printed vouchers and coupons (see paragraph 15),

As per claim 23, MedManage tracks troublesome pill samples (Dialog file 635: 2075728) teaches:

wherein the selectable options of the Web page include a quantity for each drug sample, which is specifiable by the prescriber (see paragraph 15). It is inherent that for a prescribers to order drug samples online, said prescribers has to indicate the quantity of said order sample.

As per claim 24, Sample of the Future (Dialog file 9: 02536449)

the selectable options of the Web page include a delivery location to which the drug samples will be shipped (see paragraph 15). It is inherent that in order for a physician to order physical samples, said physician would need to supply his or her physical address.

As per claim 25 MedManage Leads Shift in Drug Sampling Practices Online Vouchers (Dialog: File 16: 08993926) article teaches:

wherein the selectable options of the Web page include an option for printing on-demand vouchers on a printer in the office of the prescriber (see paragraph 2).

As per claim 31, iPhysicianNet and MedManage (Dialog file 20:16322132) and MedManage Leads Shift in Drug Sampling (Dialog file 16: 08993926) teaches:

A method for accessing a drug sample fulfillment platform, comprising:

activating a link to access the drug sample fulfillment platform from a brand Web site or another brand Web site, (see iPhysicianNet and MedManage paragraphs 3-4);

creating a transaction that includes a prescriber identifier (see MedManage Leads Shift in Drug Sampling paragraphs 2-5) mating the drug sample Web site to either the brand Web site or another brand Web site allowing a prescriber to navigate and order drug samples without the user of sales representative, only for drugs specified by a set of brand rules which include physical samples, print sample vouchers and coupons and pre-printed vouchers and print coupons (see MedManage Leads Shift in Drug Sampling paragraph 5 “formulary”);

iPhysicianNet and MedManage (Dialog file 20:16322132) and MedManage Leads Shift in Drug Sampling (Dialog file 16: 08993926) fail to teach shutting down redemptions through a pharmacy network by the drug sample fulfillment platform and disabling orders from drug samples in sample program that has expired. However, Official Notice is taken that it is old and well known in the promotion art that online orders placed in a website for unavailable items are disable by said website. It would have been obvious to person of ordinary skill in the art at the time the application was made, to know that online orders placed by prescribers for drug samples in a website would be disable by said website in view that it is old and well known to disable online orders for unavailable items.

iPhysicianNet and MedManage (Dialog file 20:16322132) and MedManage Leads Shift in Drug Sampling (Dialog file 16: 08993926) fail to teach the brand Web site being neither a pharma Web site nor a Web site maintaining the computer-implemented



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drug sample fulfillment platform; the transaction being exchanged so that the prescriber identifier and the partner identifier open the drug sample Web site within the brand Web site and the same prescriber identifier and another partner identifier open the drug sample Web site within another Web site; for the brand Web site of which the prescriber is a member and different physical samples, print sample vouchers/coupons and pre-printed vouchers/coupons for the another brand Web site of which the prescriber is a member. However, the same argument made in claim 1 regarding this missing limitation is also made in claim 31.

As per claim 33 MedManage Leads Shift in Drug Sampling Practices Online Vouchers (Dialog: File 16: 08993926) article teaches:

causing the prescriber to register if the prescriber identifier is not found in a request database (see paragraph 5).

As per claim 34, MedManage tracks troublesome pill samples teach:

based on a segment to which the prescriber belongs, determining one or more of the following:

what drug samples that are available to the prescriber; a drug sample quantity limit that is available to the prescriber; a drug sample time limit in which the drug sample quantity limit is available; the type of sample that is available to the prescriber and the dosages available to the prescriber (see paragraph 15). It is inherent that drug sample orders have time limits in view that drug samples have expiration dates.

As per claim 35, MedManage tracks troublesome pill samples teaches:

receiving a selection for physical samples, the act of receiving including receiving a drug selection, a type of drug sample selection, a quantity of drug sample selection, and a delivery address (see paragraph 15).

As per claim 36, MedManage tracks troublesome pill samples teaches:

receiving a print request to print an order form capturing the drug selection, the type of drug sample selection, the quantity of drug sample selection, and the delivery address (see paragraph 15).

As per claim 37, RxCentric and MedManage (Dialog: File 610: 00483951) article teaches:

recording the requesting activities of the prescriber in a request database (see paragraph 8).

As per claim 38, For consumers free samples (Dialog file 9: 02648296) teaches:

receiving a selection for pre-printed vouchers or print coupons, the act of receiving including receiving a drug selection, and a quantity of coupons to be printed (see paragraph 5).

As per claim 39, For consumers free samples (Dialog file 9: 02648296) teaches:

receiving a ship request to ship the pre-printed sample vouchers/coupons or a print request to print sample vouchers and coupons capturing the drug selection (see paragraph 5).

As per claim 40, RxCentric (Dialog file 610: 00483951) teaches:

recording the requesting activities of the prescriber in a request database (see paragraph 8).

As per claim 41, Samples of the future teaches:

receiving a request to print a first report that lists registration data of the prescriber, the requesting activities of the prescriber, and the claim data from a claim processor that is indicative of redeemed print and pre-printed sample vouchers/coupons and print coupons at pharmacies (see paragraph 10).

As per claim 42, MedManage tracks troublesome pill samples teaches:

receiving a request to print a second report that correlates drug samples of a drug distributed to the prescriber and with prescriptions written by the prescriber relating to the drug (see paragraph 11).

As per claim 43, RxCentric and MedManage (Dialog: File 610: 00483951) teaches:

receiving a request to print a third report that accounts for the return on investment for a monetary amount spent on a drug sample distribution program for a drug and the monetary amount received from prescriptions for the drug (see paragraph 8 “tracks sale efforts”).

As per claim 45, RxCentric and MedManage (Dialog: File 610: 00483951) article teaches:

refining the drug sample quantity limit of the prescriber based on the number of redemptions of print or pre-printed sample vouchers and coupons associated with the prescriber (see paragraph 8 “tracks sale efforts”).

As per claim 53, RxCentric and MedManage (Dialog: File 610: 00483951) article teaches:

wherein said fulfillment platform implementing a set of brand rules under which pharmaceutical drug samples are distributed, wherein said brand rules include: product; allocation quantity; dosages, sample type selected from a group consisting of live samples, pre-printed coupons/samples vouchers and on-demand print sample vouchers/sample vouchers (see paragraph 1-6). It is inherent that drug samples orders place online using the MedManage software have to include the products, quantities, type, drug strength, etc in order that the MedManage fulfill said order.

As per claim 54 MedManage Tracks Troublesome Pills (Dialog file 635:2075728) teaches:

wherein said fulfillment platform implementing a set of brand rules for distributing pharmaceutical drug samples, said brand rules including timing considerations that are selected from a group consisting of sample offer time limits and rolling expiration dates for vouchers from either within or between brands for which a quantity of drug samples can be ordered (see MedManage tracks troublesome pill samples paragraphs 11-15). MedManage system determines the different classes of medicines that are valid for a prescriber and it is inherent that there is a time frame for the validity of ordering drug samples, as drug samples have expiration date.

As per claim 55, RxCentric and MedManage (Dialog: File 610: 00483951) article teaches:

wherein said fulfillment platform comprising a pharma rules sample engine for implementation brand rules under which a prescriber may obtain drug samples, the pharma rules sample engine modifying the brand rules so as to change a quantity limit

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of drug samples to be distributed to the prescriber (see paragraph 6 “physician customized information”).

4. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over MedManage Leads Shift in Drug Sampling Practices Online Vouchers (Dialog: File 16: 08993926) in view of Peyrelevade (US 2003/0120550).

As per claim 52, MedManage Leads Shift in Drug Sampling Practices Online Vouchers (Dialog: File 16: 08993926) does not expressly teach:

wherein the marketing sample engine links the drug sample fulfillment platform to one or more suppliers and drug samples so as to inhibit the lack of supply of sample drugs desired by the prescriber or inhibit the inconsistent supply of drug samples desired by the prescriber. However, Official Notice is taken that it is old and well known in the prescribing art that drug samples are control by the manufacturers of said drugs. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that drug sample system would inhibit or control the delivery of drug samples as it is old and well known to do so.

5. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over RxCentric and MedManage (Dialog: File 610: 00483951) in view of Feeney (US 2002/0032582) and Peyrelevade (US 2003/0120550).

As per claim 44, MedManage article fails to teach:

detecting fraud by comparing the drug sample quantity limit and the time frame in which the drug sample quantity limit is available to the prescriber and the claim data which is indicative of the number of pre-printed vouchers and print coupons redeemed

by patients. However, Feeney teaches a system that detects fraud with sample medication prescription (see Feeney paragraph 284-285). Therefore, online sample voucher systems would have been motivated to add the feature of detecting fraud in coupon or voucher redemption, as taught by Feeney in view that coupon or voucher's fraud cost companies a lot of money without said companies receiving a return in the investment of said coupons.

#### **(10) Response to Argument**

The Appellant argues (see Brief pages 17, 25-27, 29, 30, 32, 33, 35, 36, 39, 40 and 42) that Peyrelevade does not teach Appellant's claimed invention because according to the Appellant, Peyrelevade discusses customizing of information to sell the same product through multiple portals and therefore, according to the Appellant, Peyrelevade customize information and not products whereas Appellant's claimed invention recites "causing a prescriber's drug sample availability and characteristics while a member of one brand Web site to be different from the same prescriber while a member of another Web site". The Appellant further argues in page 39 of the Brief that the combination of the non-patent references and Peyrelevade would not result in the claimed subject matter because according to the Appellant, said combination would yield a result where doctors can go online to order the same lipstick product where information will be customized.

The Examiner answers that the Appellant is making argument not stated in the claims when he argues that Peyrelevade does not teach Appellant's claimed invention because Peyrelevade is related to customizing information and not products whereas

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Appellant's claimed invention recites "causing a prescriber's drug sample availability and characteristics while a member of one brand Web site to be different from the same prescriber while a member of another Web site". Nowhere in Appellant's claims is recited that the "prescriber's drug sample availability and product" is the one that is different from one website to another. Appellant's claims recites that it is the "prescriber's drug sample availability and characteristics" that is different from one website to another and Appellant's specification defines that the "characteristics" of drug samples can be quantity limit (see figure 4E), various delivery methods, local presentation of drug samples and customized disclaimers (see Appellant's specification page 7, lines 5-20). Therefore, according to Appellant's specification, if for example, a prescriber visits Brand Website A and Brand Website B and both Websites display to said prescriber the same drug sample 1, however, Brand Website A displays to said prescriber a customize disclaimer 1 or a delivery method 1 with said drug sample 1 but Brand Website B displays with said drug sample 1 a different customize disclaimer or delivery method than the one displayed in Brand Website A, said displaying would read Appellant's claimed invention of "causing one prescriber's drug sample availability and characteristics to be different from one website to another" even though both Websites displayed the same drug sample 1. Therefore, the Appellant is arguing about limitation not stated in the claims or specification when the Appellant argues that Peyrelevade discusses customizing of information to sell the same product but the Appellant's claimed invention customize the products and not the information because in Appellant's claimed invention customizing the "delivery methods" or "disclaimers" is

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customizing the characteristics or information about a drug sample while selling the same drug sample. Therefore, the embodiment where Peyrelevade teaches that a first reseller website 2500a (see figure 3) may be retailer's website in Japan and a second reseller's website 2500b may be a retailer's website in the United States and that the computer platform 3300 (see figure 3) may provide the product characteristics or information in Japanese for the retailer's website in Japan (i.e. 2500a see figure 3) and would provide the product characteristic or information of the lipstick in English (see paragraph 52) for the retailer's website in the United States (i.e. second reseller 2500b), and that Peyrelevade teaches customizing the product provided to a consumer on each website by price, availability information, suggestion of complementary products (see paragraph 133) where the identification of complementary products may also be based on product characteristics and user's preferences (see paragraph 141) would read Appellant's claimed invention as the product's information or characteristics are customized to each consumer based upon brand website identification and consumer's identification (see paragraph 82). Furthermore, Peyrelevade teaches another embodiment that clearly teaches that the products are the one that are customized in the Peyrelevade's system. Peyrelevade teaches in paragraphs 89-93 that computing platform 3300 (i.e. "fulfillment platform"; see figure 3) may also defines business rules (i.e. brand rules) for customizing content based upon the origin of a request (i.e. context). The computing platform 3300 may use the business rules to access a retailer's product list, enabling display of only products offered by the retailer (i.e. availability; see paragraph 133) (i.e. reseller, items 2500a, 2500b, see figure 3). For example, if you



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have a reseller website 2500a (see figure 3) and a reseller website 2500b (see figure 3), if a consumer visits reseller website 2500a, the computer platform would determine if a request originated through a first reseller website 2500a or through a second reseller website 2500b (see paragraph 94) and based upon said determination (i.e. the request originated from reseller website 2500a), the computer platform 3300 would provide to said consumer a product listing customize to said consumer's identification or profile (see paragraphs 82 and 93), where said computer platform 3300 access the product list business rule and verify that the product listing customize to the consumer's profile or identification includes only products that are actually sold by the retailer ("availability" see paragraph 90). Furthermore, Peyrelevade teaches that the product listing business rules defined by the computer platform 3300 may also be used for cross-selling or marketing, where for example, when a consumer purchase in reseller website 2500a (see figure 3) a cosmetic product that alleviates the appearance of wrinkle, a module at the computing platform 3300 (see figure 3) may use a cross-selling business rule to determine that sunscreen should also be displayed to the consumer since both products are associated with wrinkled skin. The computer platform 3300 may then use the product list business rule to further determine whether the retailer offers the sunscreen (i.e. availability) and if so, the computer platform 3300, using a module, provides information to construct a web site that is customized with the cross-selling information (see paragraph 91). Peyrelevade also teaches that when a product is not offered by a retailer website, the product list business rule may also permit the computing platform 3300 to provide an indication that the product is not offered by the retailer's website

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2500a, such as displaying a message (i.e. availability information" see paragraphs 92 and 133). Furthermore, Peyrelevade teaches that identification of a complementary product may also be based on product characteristics and user's preference (see paragraph 141). Therefore, contrary to Appellant's argument, Peyrelevade's computing platform 330 (i.e. fulfillment platform") clearly teaches customizing a list of products displayed to a consumer visiting a particular brand (i.e. reseller) website based upon said brand website identification (i.e. "partner identifier" see paragraph 74), said consumer's identification or profile (see paragraphs 82 and 93) and based upon said product availability and characteristics (see paragraphs 133 and 141). Therefore, contrary to Appellant's argument, Peyrelevade teaches Appellant's claimed invention.

The Appellant further argues in pages 25 and 31 of the Brief that Peyrelevade does not teach Appellant's claimed invention because according to the Appellant, no one skilled in the art of pharmacology would mistake lipsticks or other beauty products as drug samples because according to the Appellant a prescriber is not a consumer that buys lipsticks and drug samples can only be prescribed by someone who is authorized to prescribe drugs.

The Examiner answers that the Appellant is arguing about limitation not stated in the claims. Nowhere in the Appellant's claims is recited that a prescriber is not a consumer that buys lipsticks and that drug samples can only be prescribed by someone who is authorized to prescribe drugs. For example, the Examiner had been prescribed and received Tylenols' samples in doctors' offices and Tylenol is a drug but it is not a prescription drug. Furthermore, Peyrelevade teaches that his invention may be used in

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connection with the sale of any product or services (see paragraph 46) and Peyrelevade also teaches that the computer platform 3300 (see figure 3) checks before displaying a complementary product to a consumer, if said complementary product does not create an adverse allergic reaction (see paragraph 141). Therefore, contrary to Appellant's argument, one of ordinary skill in the art would use the Peyrelevade's system to teach Appellant's claimed invention.

The Appellant further argues in page 18 of the Brief that the prior art reference Medmanage (TM) Leads Shift in Drug Sampling Practices Online Vouchers, PR NEWSWIRE, (Dialog file:16:08993926) is not prior art because it discusses printed vouchers that physicians retrieve online for patients to redeem free of charge. The Examiner answers that MedManage Leads Shift in Drug Sampling teaches allowing prescribers to obtain drug samples without the use of sales representative and also said prior art was published on Sep 17, 2001, which is more than one year prior to Appellant's filing date of 05/22/2003. Therefore, contrary to Appellant's argument, MedManage Leads Shift in Drug Sampling is a proper prior art to reject Appellant's claimed invention.

The Appellant argues in page 18 of the Brief that the reference Rx Centric and Medmanage Systems Partner to Expand Physician Use of Innovative Online Drug Sampling-Alliance Gives Pharmaceutical Companies Broader Physician Access to Drug Detailing and Sampling Programs, (Dialog file: 610:00483951); Samples of the future (Estimated retail worth of drug samples dispensed in 2000 was \$7.95 bil or some 50% of the promotional spending; new technology to improve monitoring) (Dialog file

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9:02536449); iPhysicianNet and MedManage Systems Partner to Offer a New Electronic and Voucher Sampling Service to Thousand of U.S. Physicians (Dialog file: 20:16322132); For Consumers free samples are a virtual reality: Pharmaceutical samples were once strictly passed from manufacturer to physician to patient, but online marketing tactics are rearranging that order, (Dialog file 9: 02648296) and MedManage tracks troublesome pills samples, (Dialog file: 635:2075728) are not prior arts because according to the Appellant, the Declaration of Scott M. King on January 14, 2007 indicates its irrelevancy, but according to the Appellant, acknowledgement of the Declaration was avoided by the Examiner. The Examiner answers that the Declaration of Scott M. King recites that "the references cited by the Office disclose goods or services connected with the registered trademarks EMEDSAMPLE and MEDSAMPLE and that these trademarks have been used to label different goods or services over the years". The Declaration further argues that the "Office assumes that the goods or services covered by the claimed invention of US Patent Application 10/674,904 are identical to the goods or services labeled by the trademarks EMEDSAMPLE and MEDSAMPLE occurred during a period that is more than one year prior to the date of the application for patent (May 22, 2003) and that said assumption is incorrect". The Examiner answers that the Appellant is making argument not related to the claims when the Appellant argues that the goods or services connected with the registered trademarks EMEDSAMPLE AND MEDSAMPLE that occurred during a period that is more than one year prior to the date of the application for patent (May 22, 2003) are not identical to the goods or service covered by the claimed invention of US Patent

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10/674,904. Furthermore, the Office is using the above references as prior arts not because the Office is assuming that the goods or services connected with the registered trademarks EMEDSAMPLE AND MEDSAMPLE that occurred during a period that is more than one year prior to the date of the application for patent (May 22, 2003) are identical to the goods or service covered by the claimed invention of US Patent 10/674,904, but because the above references were published more than one year prior to Appellant's filing date (March 20, 2001) and therefore, such references cannot be overcome, by filing of an affidavit or declaration under 37 CFR 1.131, known as "swearing back" of the reference and furthermore, because said references teach Appellant's claimed invention. Therefore, contrary to Appellant's argument, the above references are proper prior art.

The Appellant further argues in page 18 of the Brief that the reference Rx Centric and Medmanage Systems Partner to Expand Physician Use of Innovative Online Drug Sampling-Alliance Gives Pharmaceutical Companies Broader Physician Access to Drug Detailing and Sampling Programs (Dialog file 610:00483951) discusses that "under the terms of the agreement, RxCentrix's online nationally representative communities of more than 25,000 physician members will be able to obtain drug sample vouchers online through MedManage Systems that can be redeemed, free of charge, by their patients at more than 50,000 participant pharmacies", yet according to the Appellant, the Examiner never questioned whether the terms of the agreement were executed. The Examiner answers that the Appellant is arguing about limitation not stated in the claims. IF the terms of the agreement was or not executed would not eliminate the fact

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that the idea of allowing a prescriber to order drug sample online in the form of physical samples, vouchers or coupons without the use of sales representative was disclosed in said prior art reference and because the RXCentrix and MedManage System Partner to Expand Physician Use of Innovative Online Drug Sample-Alliance reference was published more than one year prior to Appellant's filing date makes said reference a proper prior art, as the reference cannot be overcome by "swearing-back" the references.

The Appellant argues in pages 20-22 of the Brief that the Appellant's specification has support for the limitation of "set of brand rules for guiding a distribution of drug samples of a drug to cause a prescriber's drug sample availability and characteristics while a member of one brand website to be different from the same prescriber while a member of another brand web site". The Appellant further argues that because Appellant's specification only mention the term "brand website" only in page 7, lines 6-18 where it recites "the brand rules provide personalization and customization for each segment. Many other personalization capabilities to tailor distribution of drug samples to prescriber 210 are possible, such as various delivery methods; various drug disclaimer; specific product, package and brand Web site", is not proper for the Examiner to request that the Appellant point to the Examiner where in Appellant's specification said limitation is recited. Furthermore, the Appellant argues that it is improper for the Examiner to want a verbatim recitation from the specification to support the limitation in the claims and according to the Appellant, said wanting does not have legal support. The Examiner answers that nowhere in Appellant's specification the term

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“brand website” is defined. Appellant’s claim 1 recites “that the brand websites being neither a pharma Web site nor a Web site maintaining the computer-implementable drug sample fulfillment platform”, however said definition is not disclosed in Appellant’s specification and was not disclosed in the original claims filed with the Specification on 09/30/2003. The Appellant added said definition of “Brand Website” to the claims that were amended on 08/03/2007. Therefore, that is the reason the Examiner requested for the Appellant to point where in the Specification said definition of brand website was located because the term “brand website” is not defined in Appellant’s original specification.

The Appellant further argues in page 24 of the Brief that when the Examiner mentioned that there is no discernible meaning in the recited claimed limitation of a “prescriber’s drug sample availability and characteristics while a member of one brand Web site to be different from the same prescriber while a member of another brand website” is because according to the Appellant, that the Examiner is trying to shoehorn the claimed limitation in a way that facilitates the use of Peyrelevade. The Examiner answers that nowhere in Appellant’s specification the term “brand website” is defined. Appellant’s claim 1 recites “that the brand websites being neither a pharma Web site nor a Web site maintaining the computer-implementable drug sample fulfillment platform”, however said definition is not disclosed in Appellant’s specification and said definition was added on an amendment to the claims filed 08/03/2007. Therefore, contrary to Appellant’s argument, the Examiner is not trying to shoehorn the claimed limitation in a way that facilitates the use Peyrelevade because Peyrelevade teaches

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Appellant's "Brand website" limitation as recited in Appellant's claims (See examiner's arguments in this section Response to argument paragraph 2).

The Appellant argues in page 25 of the Brief that Appellant's subject matter is related to a set of brand rules causing a prescriber's drug sample availability and characteristics to be different whereas Peyrelevade customizes, according to the Appellant, not products but information of the same product. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in pages 25-26 that in Peyrelevade, according to the Appellant, is the information that is customized and not the product because according to the Appellant, although the consumer request the same product, the product information may be customized. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in pages 28-29 of the Brief with respect to claim 1 that the prior arts do not teach "brand rules". The Examiner answers that Appellant's specification page 7, lines 5-20 defines "brand rules" as "causing one prescriber's drug sample availability and characteristics to be different from those of another prescriber". MedManage (TM) leads Shift in Drug Sampling Practices Online Voucher (Dialog file 16:08993926) teaches that prescribers are allowed to register to the eMedSample program and receive information about the new medication, formulary and non formulary drugs (see paragraphs 1-5) and RXCentric and MedManage Systems Partner



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to Expand Physician Use of Innovative Online Drug Sampling-Alliance Gives Pharmaceutical Companies Broader Physician Access to Drug Detailing and Sampling Programs (Dialog file 610:00483951) teach using the eMedSample program in order to provide physicians customized information in different targeted medical specialties and allowing physicians to download drug sample vouchers for use by their patients (see paragraphs 1-7). Furthermore, Peyrelevade teaches the use of business rules in order to customize the products that would display to a customer visiting a retailer or brand website, based upon said retailer's identifier and said customer identifier (see paragraphs 89-92). In Peyrelevade, a customer would receive a different list of products based upon the retailer or brand website said customer is visiting or browsing (see paragraph 89-92). Therefore, contrary to Appellant's argument, the prior arts teach Appellant's claimed invention as it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Medmanage would customize the samples presented to prescribers that visit a website based upon the brand of the website and the prescribers' profiles, as Peyrelevade teaches that it is old and well known to customize the products presented to a user of a website based upon the brand website and the user's profile.

The Appellant argues in page 29 of the Brief that Peyrelevade does not teach Appellant's claimed invention because according to the Appellant, Peyrelevade sell the same product through multiple portals and not to customize the product. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 30 of the Brief that Peyrelevade does not teach Appellant's claimed invention because the Appellant cannot find in Peyrelevade where a common product is customized. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in pages 31-32 that Peyrelevade does not teach Appellant's claimed limitation because according to the Appellant, a prescriber is not a consumer that buys lipsticks, that drugs sample can only be prescribed by someone who is authorized to prescribe drugs and anyone can buy lipstick. The Examiner answers that he already addressed said argument in paragraph 4 of this section Response to Arguments.

The Appellant argues in page 32 of the Brief that Peyrelevase does not teach Appellant's claimed invention because the purpose of a profile in Peyrelevase is to customize information and not product. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 33 of the Brief that Peyrelevade does not teach Appellant's claimed invention because according to the Appellant, Peyrelevade customize information and not product and that the preference of Peyrelevade is to sell the same product. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 35 of the Brief that Peyrelevade does not teach Appellant's claimed invention because Peyrelevade prefers the same product be sold

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while information about it is customize and that according to the Appellant, Peyrelevade teaches away from Appellant's claimed invention because Peyrelevade prefers to sell the same product. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 36 of the Brief that Peyrelevade does not teach Appellant's claimed invention because according to the Appellant, lipsticks consumers in Peyrelevade can buy the same brand of lipstick but are exposed to information that is customized. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in pages 37-38 of the Brief that the prior arts do not teach the claimed limitation of "electronically notifying the prescriber about the availability of drug samples" because according to the Appellant, request for information do not mean electronically notifying the prescriber about the availability of drug samples. The Examiner answers that Appellant's claims do not recite electronic notifying by sending an email message or another message to the prescriber about the availability of drug samples but Appellant's claims simply recite "electronically notifying the prescriber about availability of drug samples" and nothing else. Therefore, contrary to Appellant's argument, allowing a prescriber to visit a website and request information about new sample drugs, formulary or non formulary drugs (see MedManage Leads Shift in Drug Sampling see paragraph 5) and target prescribers with drug sample information in different medical specialities (see RxCentric and MedManage System Partner to expand see paragraphs 4-6) would read Appellant's claimed limitation of "electronically

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notifying the prescriber about the availability of drug samples". Furthermore, Peyrelevade teaches that it is old and well known in the promotion art to send messages to consumers related to the availability of products in a retailers or brand website (see paragraph 92). Therefore, contrary to Appellant's argument, the prior arts teach Appellant's claimed limitation.

The Appellant argues in pages 38-39 of the Brief that the combination of the non-patent references and Peyrelevade do not produce the claimed invention. The Examiner answers that the non-patent reference teaches allowing prescriber to order drug samples without the need of a sales representative when said prescriber visit a brand website by allowing said prescriber to order physical samples or vouchers (see MedManage Leads Shift paragraph 5, RxCentric and MedManage Systems paragraph 1; For consumers free sample paragraph 5) and Peyrelevade teaches that it is old and well known in the promotion art to customize the products presented to a consumers based upon the brand or retailer website said consumer is browsing and based upon said consumer's identification (see paragraphs 89-93). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Medmanage would customize the samples presented to prescribers that visit a website based upon the brand of the website and the prescribers' profiles, as Peyrelevade teaches that it is old and well known to customize the products presented to a user of a website based upon the brand website and the user's profile.

The Appellant argues in pages 39-40 of the Brief that the Examiner gave the non-patent references and Peyrelevade the Broadest, Most unreasonable interpretation

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because according to the Appellant, Peyrelevade is directed to selling the same product and has nothing to do with computer-readable set of brand rules to cause a prescriber's drug sample availability and characteristics while a member of one brand website to be different from the same prescriber while a member of another brand website. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 40 of the Brief that the explicit discussion of the non-patent reference is reinterpreted by the Examiner to mean that doctors can go to a Website that is neither a pharma Web site nor a web site maintaining the computer implemented drug sample fulfillment platform and on top of that, requesting of information by the doctors is reinterpreted into the computer-implemented drug sample fulfillment to electronically notifying the prescriber about the availability of drug samples and according to the Appellant, no reasonable interpretation of the claims can produce an outcome so erroneous. The Examiner answers that For Consumers free samples teaches prescribers visiting brand website in the MedManage system (see paragraph 5) RxCentric and MedManage Systems Partner teaches prescribers receiving notification in the form of target marketing about the availability of drug sample in the MedManage system (see paragraph 5-8) and Peyrelevade teaches customizing product information presented to customers based upon said customers visiting brand website and customer's profile (see paragraphs 89-92) and notifying consumers by sending a message about the availability of products (see paragraphs 92 and 133). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in pages 41-42 that the fact that a claim species or sub-genus is encompassed by the Prior art Genus is not sufficient by itself to Establish a Prima Facie Case of Obviousness. The Appellant further argues that Peyrelevade cannot render obvious the claimed subject matter, which teaches a species in that a computer readable set of brand rules guides a distribution of drug samples of a drug to cause a prescriber's drug sample availability and characteristics while a member of one brand website to be different from the same prescriber while a member of another brand Web site. The Appellant further argues that the trust of Peyrelevade is for selling the same product, such as lipstick, an eye shadow, a blush, anti-wrinkle product and beauty care products and according to the Appellant, said trust has nothing to do with a computer readable set of brand rules guides a distribution of drug samples of a drug to cause a prescriber's drug sample availability and characteristics while a member of one brand website to be different from the same prescriber while a member of another brand Web site. The Examiner answers that he already addressed said arguments in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 42 of the Brief with respect to claim 2 that the prior art do not teach physical samples. The Examiner answers that Sample of the future teaches ordering physical samples online that are mailed the sample to the prescriber (see paragraph 15). Therefore, contrary to Appellant's argument, the prior art teaches physical samples.

The Appellant argues in page 43 of the Brief with respect to claim 4 that the Examiner has failed to show where the cited references disclose a drug sample

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fulfillment platform. The Examiner answers that MedManage Leads Shift in Drug Sampling teaches in paragraph 2 the MedManage systems' edMedSample program (i.e. drug sample fulfillment platform), which distributes free-samples voucher over the Internet and Peyrelevade teaches a computing platform (see figure 3, item 3300) which stores business rules, where said platform is mated to different retailers website (i.e. brand website; see figure 3 items 2500a and 2500b) and where said business rules are used to customize the list of products presented to a consumer visiting one of said retailers websites based upon said retailers website identification (i.e. partner identifier) and consumer identification (see paragraphs 89-94). Therefore, contrary to Appellant's argument, the prior art teach the "drug sample fulfillment platform".

The Appellant argues in page 43 of the Brief that the prior arts do not teach that redeem data is generated by the drug sample fulfillment platform for refining the brand rules so as to better guide allocation and distribution of the drug samples. The Examiner answers that RxCentric and MedManage Systems Partner teaches that MedManage tracks sales efforts and collects sampling prescription data through its proprietary information systems (i.e. redeemable data) in order to target relevant marketing information to physicians (see paragraphs 4-8). Therefore, contrary to Appellant's argument, the prior art teaches Applicant's claimed invention.

The Appellant argues in pages 43-44 of the Brief that the prior arts do not teach Appellant's claim 6 of a first set of Web pages coupled to the drug sample fulfillment platform to order drug samples if a set of brand rules which specify drug sample availability and characteristics for the prescriber permits the prescriber to access the

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drug sample fulfillment platform. The Examiner answers that he already addressed said argument in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 44 of the Brief that the prior arts do not teach Appellant's claim 7 of a set of Web pages through which a sales representative can access the drug sample fulfillment platform to print sample voucher coupons. The Examiner answers that if prescriber are able to access the MedManage system to order to drug sample online and receive live face to face e-Detailing then the sales representative that are related to the drug sample system are also customers of the MedManage system and would also access the drug sample fulfillment platform to order and print drug samples (see IPhysicianNet and MedManage Systems Partner paragraphs 5-8). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 45 of the Brief with respect to claim 8 that the prior arts do not teach web pages through which a patient can access the drug sample fulfillment platform to obtain sample vouchers and coupons. The Examiner answers that For consumer free sample are a virtual reality teaches in paragraph 4 that consumers could access the MedManage system and order free samples online. Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 45 of the Brief with respect to claim 9 that the prior arts do not teach permit access to physical samples, pre-printed vouchers and print on demand vouchers. The Examiner answers that Sample of the Future teaches that it is



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old and well known in the promotion art to allow users to order physical samples online (see paragraph 15) and MedManage Leads Shift in Drug Sampling teaches allowing prescriber to order vouchers online (see paragraph 2) and For consumers free samples are a virtual reality teaches pre-printed drug samples (see paragraph 10). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 45 of the Brief that the prior arts do no teach claim 10. The Examiner answers if the MedManage system tracks sales efforts and collects sampling prescription data (see RxCentric and MedManage Systems Partner paragraph 8), the MedManage system would have to display a list of an order history for said tracking and because said system is tracking drug samples, the MedManage system would track the parameters to identify said drug samples, which are date, drug sample, dosages and quantity of said drug samples. Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 46 of the Brief that the prior arts do not teach claim 16. The Examiner answers that he already addressed said limitations of claim 16 in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 47 of the Brief with respect to claim 17 that the prior arts do not teach that the request database receives claim information when a patient redeems a print coupon or pre-printed voucher for physical samples. The Examiner answers that Samples of the future teaches the MedManage tracks sample

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redemption (see paragraph 10). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 47 of the Brief with respect to claim 18 that the prior arts do no teach producing a first report accounting the number of coupons or vouchers redeemed by patients of the prescriber. The Examiner answers that Samples of the future teaches that the MedManage system will provide iPhysicianNet's clients (i.e. prescribers) with monthly pharmacy tracking reports that measure redemption of sample vouchers (See paragraph 10) and MedManage tracks troublesome pill samples teaches that the MedManage system creates an electronic record by the pharmacies of when and by whom the drug were prescribed, giving the drug firms valuable information about how often their drug being used and for what ailment (see paragraph 11). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 48 of the Brief with respect to claim 18 that the prior arts do not teach correlating an allocation of drug samples of a drug to the prescriber with a number of prescriptions written by the prescriber relating to the drug. The Examiner answers that Sample of the future teaches that MedManage has developed an electronic voucher system called MedManage that allows physician to order drug samples online, tracks sample distribution and provides clients with monthly pharmacy tracking reports that measure redemption (see paragraphs 7-10) and RxCentric and MedManage Systems Partner teaches that the MedManage system tracks sale efforts and collects sampling prescription data through its proprietary

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information system (see paragraph 8) and MedManage tracks troublesome pill samples teaches that the MedManage system creates an electronic record by the pharmacies of when and by whom the drug were prescribed, giving the drug firms valuable information about how often their drug being used and for what ailment (see paragraph 11). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 48 of the Brief that the prior arts do not teach claim 20. The Examiner answers that RxCentric and MedManage Systems Partner teaches tracking sales effort and collects sample prescription data through its proprietary information systems where MedManage is currently contracted with more than 55,000 retail and chain pharmacies (see paragraph 8) and Samples of the future teaches that the MedManage system provides pharmacy tracking reports that measure sample redemption (see paragraph 10) and MedManage tracks troublesome pill samples teaches that the MedManage system creates an electronic record by the pharmacies of when and by whom the drug were prescribed, giving the drug firms valuable information about how often their drug being used and for what ailment (see paragraph 11). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in pages 48-49 that the prior arts do not teach claim 21 because the prior art do not teach that the time frame, dosages and quantity are different depending whether the prescriber is a member of one third party site or member of another third party site. The Examiner answers that it is inherent that drugs

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samples have expiration dates (see MedManage tracks troublesome pills paragraph 11), quantity and dosage because it is a prescription drug. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that drug samples that are ordered by a prescriber online using the Medmanage system would have an expiration date, a quantity and a dosage as it is a prescription drug and MedManage tracks troublesome pills would use the Peyrelevade system to customize the drug samples based upon prescriber identification and brand website, where said drug samples would have an expiration, quantity and dosage amount as those are the parameters that identify drugs and also because Peyrelevade teaches that it is old and well known in the promotion to customize the list of products presented to a user visiting a website based upon said Website identifier (i.e. branding) and said user's identification or profile (see Peyrelevade paragraph 89-94). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 49 that the prior arts do not teach claim 22. The Examiner answers that he already addressed claim 22 limitations in the paragraph 2 above in this section Response to Argument.

The Appellant argues in page 50 of the Brief that the prior art do not teach claim 23 that selectable options of the Web page include a quantity for each drug sample which is specifiable by the prescriber. The Examiner answers that it is inherent that for a prescriber to order drug samples online, said prescriber has to indicate the quantity of said drug samples as said samples are drugs and therefore, are prescribed by quantity.

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Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 50 of the Brief that the prior arts do not teach claim 24 of a selectable option to which drug samples will be shipped. The Examiner answers that Sample of the future paragraph 15 teaches that prescribers can orders drug samples online where the sample order goes to the manufacturer who mail the drug sample to the prescriber. It is inherent that in order for a prescriber to receive said mailing of drug sample, said prescriber need to indicate his or her mailing address. Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 50 that the prior arts do not teach claim 25 of printing on demand vouchers on a printer in the office of the prescriber. The Examiner answers that MedManage leads Shift in Drug sampling Practice teaches in paragraph 2 allowing prescriber to print voucher and hand it the voucher to the patient. Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 51 of the Brief that the prior arts do not teach claim 31. The Examiner answers that he already address claim 31 limitation in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 52 of the Brief with respect to claim 33 that the prior arts do not teach causing a prescriber to register if the prescriber identifier is not found in a request database. The Examiner answers that MedManage Leads Shift in

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Drug Sampling Practices teaches in paragraph 5 allowing prescribers to register in the MedManage system. Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 52 of the Brief that the prior arts do not teach claim 34. The Examiner answers that RxCentric and MedManage Systems Partners teaches determining what drug samples are available to the prescriber (see paragraphs 4-6). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 52 of the Brief that the prior arts do not teach claim 35. The Examiner answers that RxCentric and MedManage Systems Partners teaches allowing prescribers to order drug samples vouchers online (see paragraph 4) and it is inherent that to order drugs samples, said prescriber needs to indicate the drug selection, type of drug sample, quantity and delivery address in order to receive the prescription drug that said prescriber needs to treat a patient. Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 53 of the Brief the prior arts do not teach claim 36. The Examiner answers that MedManage Leads Shift in Drug sampling teaches receiving a print request to order a drug sample (see paragraph 2) and it is inherent that said request would indicate drug sample selection, the quantity and Samples of the future teaches that it is old and well known to order drug samples online and mail to the prescriber, which it is also inherent that said prescriber would need to provide mailing

address (see paragraph 15). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 53 that the prior arts do not teach claim 37 of recording the requesting activities of the prescriber in a request database. The Examiner answers that MedManage tracks troublesome pill samples teaches that the MedManage system creates an electronic record by the pharmacies of when and by whom the drug were prescribed, giving the drug firms valuable information about how often their drug being used and for what ailment (see paragraph 11). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 54 of the Brief that the prior arts do not teach claim 39 receiving a ship request to ship the pre-printed sample voucher/coupons to a print request to print sample vouchers and coupons capturing drug selection. The Examiners that For consumers free samples (see paragraph 5) and MedManage Leads Shift in Drug Sampling (see paragraph 2) teaches print request in order to give drugs samples to patients. Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 54 of the Brief that the prior arts do not teach claim 40 of requesting activities of the prescriber in a request database. The Examiner answers that MedManage tracks troublesome pill samples teaches that the MedManage system creates an electronic record by the pharmacies of when and by whom the drug were prescribed, giving the drug firms valuable information about how often their drug

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being used and for what ailment (see paragraph 11). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 54 of the Brief that the prior arts do not teach claim 41 of list of registration data of the prescriber, the requesting activities of the prescriber and the claim data from a claim processor that is indicative of redeemed print and pre-printed sample voucher/coupon and print coupons at pharmacies. The Examiner answers that RxCentric and MedManage Systems Partner teaches tracking sales effort and collects sample prescription data through its proprietary information systems where MedManage is currently contracted with more than 55,000 retail and chain pharmacies (see paragraph 8) and Samples of the future teaches that the MedManage system provides pharmacy tracking reports that measure sample redemption (see paragraph 10) and MedManage tracks troublesome pill samples teaches that the MedManage system creates an electronic record by the pharmacies of when and by whom the drug were prescribed, giving the drug firms valuable information about how often their drug being used and for what ailment (see paragraph 11). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 55 of the Brief that the prior arts do not teach claim 43 of a report that correlates drug samples of a drug distributed to the prescriber and with prescription written by the prescriber relating to the drug. The Examiner answers that RxCentric and MedManage Systems Partner teaches tracking sales effort and collects sample prescription data through its proprietary information systems where MedManage is currently contracted with more than 55,000 retail and chain pharmacies



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(see paragraph 8) and Samples of the future teaches that the MedManage system provides pharmacy tracking reports that measure sample redemption (see paragraph 10) and MedManage tracks troublesome pill samples teaches that the MedManage system creates an electronic record by the pharmacies of when and by whom the drug were prescribed, giving the drug firms valuable information about how often their drug being used and for what ailment (see paragraph 11). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 55 of the Brief that the prior arts do not teach claim 43. The Examiner answers that RxCentric and MedManage Systems Partner teaches a report that tracks sale efforts (see paragraph 8). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 55-56 of the Brief that the prior arts do not teach claim 44. The Examiner answers that Feeney teaches a system that detects fraud with sample medication prescription (see Feeney paragraph 284-285). Therefore, online sample voucher systems would have been motivated to add the feature of detecting fraud in coupon or voucher redemption, as taught by Feeney in view that coupon or voucher's fraud cost companies a lot of money without said companies receiving a return in the investment of said coupons. Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 56 of the Brief that the prior arts do not teach claim 45. The Examiner answers that MedManage tracks troublesome pills teaches in

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paragraphs 1-17 and For Consumer free samples teaches in paragraph 7 tracking sample redemption in order to determine when and by whom the drugs were prescribed and therefore, refine the drug sample distribution (See paragraphs 1-17). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 56 of the Brief that the prior arts do not teach claim 51. The Examiner answers that RxCentric and MedManage System Partners teaches a pharma and marketing rule in order that said prescriber access relevant marketing information and drug samples (see paragraphs 2-8). Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 57 of the Brief that the prior arts do no teach claim 52 of wherein the marketing sample engine links the drug sample fulfillment platform to one or more suppliers and drug samples so as to inhibit the lack of supply of sample drugs desired by the prescriber or inhibit the inconsistent supply of drug samples desired by the prescriber. The Examiner answers that Official Notice is taken that it is old and well known in the prescribing art that drug samples are control by the manufacturers of said drugs. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that drug sample system would inhibit or control the delivery of drug samples as it is old and well known to do so.

The Appellant argues in page 57 of the Brief that the prior arts do not teach claim 53. The Examiner answers that the limitation of claim 57 were already addressed in paragraph 2 of this section Response to Arguments.

The Appellant argues in page 57 of the Brief that the prior arts do not teach claim 54. The Examiner answers that MedManage tracks troublesome pills paragraphs 11-15 determines the different classes of medicines that are valid for a prescriber and teaches that drug samples have expiration dates. Therefore, contrary to Appellant's argument, the prior art teach Appellant's claimed invention.

The Appellant argues in page 58 of the Brief that the prior arts do not teach claim 55. The Examiner answers that the limitation of claim 55 were already addressed in paragraph 2 of this section Response to Argument.

The Appellant argues in page 58-62 that the non patent references, Peyrelevade and Feeney teach the Appellant's claimed invention. The Examiner answers that said argument were already addressed in the above paragraphs.

### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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